



## WYOMING LEGISLATIVE SERVICE OFFICE

# Memorandum

**DATE** November 30, 2018

**TO** Members, Joint Minerals Committee

**FROM** Chris Land, Staff Attorney

**SUBJECT** Summary of Blockchain Task Force Legislation

This memorandum provides a summary of the proposed legislation advanced by the Blockchain Task Force.

### **Banking Technology and Stock Revisions** (19LSO-0045, v.0.6)

- Specifies that banks may issue any type of stock allowed for corporations, including non-voting shares, subject to authorization in a bank's articles of incorporation.
- Clarifies that banks may maintain shareholder records, capital impairment notices and other required records using electronic systems, which may include identification of shareholders using data addresses.

### **Financial Technology Sandbox** (19LSO-0048, v.0.7)

- Establishes a supervised program ('sandbox'), managed by the Banking Commissioner and the Secretary of State, for innovative financial products or services<sup>1</sup> to be tested in Wyoming.
- Similar to sandboxes operating in, or being considered by, Arizona, Illinois and the United Kingdom.
- Authorizes limited waivers of existing statutes and rules during the testing period.
- Specifies consumer protection requirements, including a required bond of not less than \$10,000 and consumer disclosures.
- Authorizes the Banking Commissioner and the Secretary of State to enter into sandbox reciprocity agreements with other states, federal agencies and foreign regulators.
- Provides supervisory, examination and rulemaking authority to the Banking Commissioner and the Secretary of State.

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<sup>1</sup> Innovative financial product or service is defined as a "new or emerging technology, or new uses of existing technology, that provides a product, service, business model or delivery mechanism to the public and has no substantially comparable, widely available analogue in Wyoming, including blockchain technology." (pg. 5).

**Special Purpose Depository Banks** (19LSO-0055, v.0.8)*Overview*

- Creates a new Wyoming-chartered financial institution (a "special purpose depository bank"), regulated and supervised by the Banking Commissioner, for businesses.
- Tailored to serve blockchain companies, other legal businesses which face challenges accessing banking services and to comply with federal customer identification, anti-money laundering and beneficial ownership requirements.

*Scope of Business*

- Provides depository and payment services for specified customers (see *Bank Customers* below), as well as incidental banking-related activities authorized by the Banking Commissioner which are not inconsistent with this bill.
- Prohibits lending, including the provision of overdraft services and daylight overdrafts.
- Specifies that a special purpose depository bank must maintain liquid assets equal to 100% of its depository liabilities, as a condition of operation. Defines "liquid assets" as cash maintained at the bank, the Federal Reserve, a federally-insured financial institution or certain highly liquid investments, such as United States treasury bonds.
- Requires a contingency account equal to 2% of the depository liabilities of the special purpose depository bank, as well as private insurance covering directors' and officers' liability, errors and omissions liability and information technology activities.
- Authorizes, but does not require, Federal Deposit Insurance Corporation insurance.

*Bank Customers*

- Customers must meet the following criteria to open an account: (1) be a legal entity other than a natural person; (2) be in good standing with the U.S. jurisdiction in which it is incorporated/organized; (3) maintain deposits of at least \$5,000; (4) be engaged in a lawful business; and (5) make certain evidence available to the bank regarding federal requirements.
- Requires the bank to open an account for a customer meeting the above criteria.

*Required Disclosures*

- Requires special purpose depository banks, if applicable, to provide notice that deposits are not insured by the Federal Deposit Insurance Corporation in the following ways: (1) a display on the bank's website; (2) a sign at each place accepting deposits; (3) a written acknowledgment signed by each depositor; and (4) on all advertising.

*Federal Law*

- Underscores that all applicable federal laws continue to apply to special purpose depository banks, including anti-money laundering, customer identification and beneficial ownership requirements.<sup>2</sup>

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<sup>2</sup> See, e.g., Bank Secrecy Act, 12 U.S.C. §§ 1829b, 1951 *et seq.*, as amended; Money Laundering Control Act, 18 U.S.C. §§ 1956, 1957, as amended; USA PATRIOT Act, 31 U.S.C. § 5311 *et seq.*, as amended; 31 C.F.R. § 1010.230 *et seq.* (beneficial ownership).

- Requires the Attorney General to commence a civil action to maintain the State of Wyoming's authority to charter and supervise banks if a special purpose depository bank is unable to obtain a Federal Reserve master account to access currency, deposit and wire transfer services required to be made available to all banks.

#### *Organization*

- Specifies that a special purpose depository bank is a corporation created under the Wyoming Business Corporation Act.<sup>3</sup>
- Requires the principal operating headquarters of the special purpose depository bank and the office of its chief executive officer to be located in Wyoming.
- Provides that an application for a charter requires not less than \$5 million in capital and three years of estimated operating expenses as surplus.
- Requires a surety bond or pledged investments as security for costs which may be incurred by the Banking Commissioner during a liquidation or conservatorship.
- Segregates all fees paid by special purpose depository banks to the Banking Commissioner for supervision and examination into a subaccount controlled by the Commissioner.
- Specifies that failure to comply with the liquid asset and contingency account requirements, among other factors, is grounds for liquidation or conservatorship.
- Requirements relating to chartering, supervision, liquidation, conservatorship and dissolution mirror existing law for banks and trust companies.
- Provides rulemaking and general supervisory authority to the Banking Commissioner.

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If you have any questions or concerns, please do not hesitate to contact me at (307) 777-7108 or [chris.land@wyoleg.gov](mailto:chris.land@wyoleg.gov).

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<sup>3</sup> W.S. 17-16-101 through 17-16-1810.